

2016

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Victims of Crime (Financial Assistance) Bill 2016

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2016

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Victims of Crime (Financial Assistance) Bill 2016

A Bill for

An Act to provide financial assistance for people affected by acts of violence,
and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as
follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Victims of Crime (Financial Assistance) Act 2016*.

4 **2 Commencement**

5 (1) This Act commences on—

6 (a) 1 July 2016; or

7 (b) if, before 1 July 2016, the Minister fixes another day by written
8 notice—the day fixed.

9 *Note 1* The naming and commencement provisions automatically commence on
10 the notification day (see [Legislation Act](#), s 75 (1)).

11 *Note 2* A single day or time may be fixed, or different days or times may be
12 fixed, for the commencement of different provisions (see [Legislation](#)
13 [Act](#), s 77 (1)).

14 (2) If this Act has not commenced within 18 months beginning on its
15 notification day, it automatically commences on the first day after
16 that period.

17 (3) The [Legislation Act](#), section 79 (Automatic commencement of
18 postponed law) does not apply to this Act.

1 **3 Dictionary**

2 The dictionary at the end of this Act is part of this Act.

3 *Note 1* The dictionary at the end of this Act defines certain terms used in this
4 Act, and includes references (*signpost definitions*) to other terms
5 defined elsewhere.

6 For example, the signpost definition ‘*commissioner*—see the *Victims of*
7 *Crime Act 1994*, dictionary.’ means that the term ‘commissioner’ is
8 defined in that dictionary and the definition applies to this Act.

9 *Note 2* A definition in the dictionary (including a signpost definition) applies to
10 the entire Act unless the definition, or another provision of the Act,
11 provides otherwise or the contrary intention otherwise appears (see
12 [Legislation Act](#), s 155 and s 156 (1)).

13 **4 Notes**

14 A note included in this Act is explanatory and is not part of this Act.

15 *Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of
16 notes.

17 **5 Offences against Act—application of Criminal Code etc**

18 Other legislation applies in relation to offences against this Act.

19 *Note 1* *Criminal Code*
20 The [Criminal Code](#), ch 2 applies to all offences against this Act (see
21 Code, pt 2.1).

22 The chapter sets out the general principles of criminal responsibility
23 (including burdens of proof and general defences), and defines terms
24 used for offences to which the Code applies (eg *conduct*, *intention*,
25 *recklessness* and *strict liability*).

26 *Note 2* *Penalty units*
27 The [Legislation Act](#), s 133 deals with the meaning of offence penalties
28 that are expressed in penalty units.

1 **6 Object of Act**

2 The object of this Act is to help victims of crime by establishing a
3 system for giving financial assistance to—

- 4 (a) assist victims of crime to recover from acts of violence; and
5 (b) contribute to the safety of victims of crime and the prevention
6 of future acts of violence; and
7 (c) acknowledge the harmful effects of acts of violence; and
8 (d) complement other services provided for victims of crime.

1 **Part 2** **Important concepts**

2 **7** **Meaning of *act of violence***

3 (1) In this Act:

4 *act of violence* means conduct that—

5 (a) results in a person's injury or death; and

6 (b) is, or happens in the course of, an offence (the *associated*
7 *offence*) that is—

8 (i) a schedule 1 offence; or

9 (ii) an offence prescribed by regulation; and

10 (c) occurs on or after the commencement of this Act.

11 (2) In deciding whether conduct is an *act of violence*, it does not matter
12 whether a person responsible for the conduct—

13 (a) has or has not been identified; or

14 (b) lacks the legal capacity to be charged with, or convicted or
15 found guilty of, the associated offence; or

16 (c) has or has not been charged with, or convicted or found guilty
17 of, the associated offence based on the conduct.

18 **8** **Meaning of *circumstance of aggravation* for an offence**

19 (1) For this Act, each of the following is a *circumstance of aggravation*
20 for an offence:

21 (a) as a direct result of the offence a very serious injury that is not
22 likely to be permanent is caused to the primary victim of the
23 offence;

- 1 (b) the offence forms part of a series of offences that are related;
- 2 **Examples—series of offences that are related**
- 3 1 offences with same offender and same primary victim
- 4 2 contemporaneous or near contemporaneous offences
- 5 *Note* An example is part of the Act, is not exhaustive and may extend,
- 6 but does not limit, the meaning of the provision in which it
- 7 appears (see [Legislation Act](#), s 126 and s 132).
- 8 (c) the offence is carried out by a person acting in company;
- 9 (d) a person carrying out the offence uses an offensive weapon
- 10 against the primary victim of the offence;
- 11 (e) a person carrying out the offence is in a position of power, trust
- 12 or authority in relation to the primary victim of the offence;
- 13 (f) when the offence was carried out, the primary victim of the
- 14 offence—
- 15 (i) had an impaired physical, psychological or intellectual
- 16 capacity; or
- 17 (ii) was either under 18 years old or more than 65 years old;
- 18 or
- 19 (iii) was pregnant.
- 20 (2) However, a circumstance mentioned in subsection (1) (a) to (f) is
- 21 not a *circumstance of aggravation* for an offence if the
- 22 circumstance is an element of the offence.

23 **9 Meaning of *injury***

- 24 (1) In this Act:
- 25 *injury*—
- 26 (a) means any of the following:
- 27 (i) physical injury;

- 1 (ii) mental illness;
- 2 (iii) mental disorder; and
- 3 (b) includes—
- 4 (i) the aggravation, acceleration or recurrence of a physical
- 5 injury, mental illness or mental disorder; or
- 6 (ii) the contraction, aggravation, acceleration or recurrence of
- 7 a disease; and
- 8 (c) if the injury occurs in the course of, or as a result of, a sexual
- 9 offence or domestic violence offence includes—
- 10 (i) unplanned pregnancy; or
- 11 (ii) a sense of violation; or
- 12 (iii) a reduced sense of self-worth; or
- 13 (iv) increased fear or feelings of insecurity; or
- 14 (v) reduced capacity to participate in sexual activity.
- 15 (2) In this section:
- 16 *domestic violence offence* means a schedule 1 offence for which the
- 17 victim of the offence is a relevant person.

18 **10 Meaning of homicide**

19 In this Act:

20 *homicide* means an act that—

- 21 (a) occurs on or after the commencement of this Act; and
- 22 (b) results in the death of a person; and
- 23 (c) is, or happens in the course of, an offence of murder,
- 24 manslaughter or culpable driving causing death.

1 **11** **Meaning of *primary victim***

2 In this Act:

3 *primary victim* means a person who has been injured or dies as a
4 direct result of an act of violence done by another person.

5 **12** **Meaning of *related victim***

6 In this Act:

7 *related victim* means any of the following:

- 8 (a) a class A related victim;
9 (b) a class B related victim;
10 (c) a class C related victim.

11 **13** **Meaning of *class A related victim***

12 In this Act:

13 *class A related victim* means a person who, at the time a primary
14 victim dies—

- 15 (a) is a dependant of the primary victim; and
16 (b) is 1 of the following:
17 (i) a close family member of the primary victim;
18 (ii) in a relevant relationship with the primary victim.

19 *Note* **Relevant relationship**—see the *Domestic Violence and*
20 *Protection Orders Act 2008*, s 15.

1 **14** **Meaning of *class B related victim***

2 In this Act:

3 *class B related victim* means a person who, at the time a primary
4 victim dies—

5 (a) is financially independent of the primary victim; and

6 (b) is either—

7 (i) a close family member of the primary victim who has a
8 genuine personal relationship with the primary victim; or

9 (ii) in a relevant relationship with the primary victim.

10 Note **Relevant relationship**—see the *Domestic Violence and*
11 *Protection Orders Act 2008*, s 15.

12 **15** **Meaning of *class C related victim***

13 (1) In this Act:

14 *class C related victim* means a person who, at the time a primary
15 victim dies—

16 (a) is financially independent of the primary victim; and

17 (b) is a family member of the primary victim.

18 (2) In this section:

19 *family member* means a person who—

20 (a) has a genuine personal relationship with the primary victim;
21 and

22 (b) is—

23 (i) a brother, sister, stepbrother, stepsister, half-brother or
24 half-sister of the primary victim; or

- 1 (ii) if the primary victim was an Aboriginal person or a
2 Torres Strait Islander person—is regarded, in accordance
3 with the primary victim’s Aboriginal community or
4 Torres Strait Islander community, as a person mentioned
5 in subparagraph (i).

6 **16 Meaning of *homicide witness***

7 In this Act:

8 *homicide witness*, in relation to a homicide, means a person, other
9 than a primary victim, a related victim or a perpetrator of the
10 homicide, who has been injured as a result of—

- 11 (a) being present when the homicide occurs; or
12 (b) being a witness in a criminal investigation or a proceeding
13 related to the homicide.

14 **17 Meaning of *close family member***

15 (1) In this Act:

16 *close family member*, of a primary victim, means a person who is
17 in 1 of the following relationships:

- 18 (a) the domestic partner of the primary victim;
19 *Note* *Domestic partner*—see the [Legislation Act](#), s 169.
20 (b) a parent, guardian or step-parent of the primary victim;
21 (c) a child or stepchild of the primary victim, or some other child
22 of whom the primary victim is the guardian.

23 (2) In this section:

24 *guardian* does not include the director-general responsible for
25 administering the [Children and Young People Act 2008](#) or any other
26 person who is a guardian because of the person’s occupation of a
27 statutory office, whether within the ACT or elsewhere.

1 **Part 3** **Financial assistance**

2 **Division 3.1** **Eligibility**

3 *Note* In addition to financial assistance, a person may also be eligible for a
4 funeral expense payment.

5 **18** **Eligibility for financial assistance**

6 Financial assistance may only be given to a person who is eligible to
7 apply for financial assistance in accordance with this division.

8 **19** **Primary victim**

9 A primary victim is eligible to apply for any of the following:

- 10 (a) an immediate need payment;
11 (b) an economic loss payment;
12 (c) a recognition payment.

13 **20** **Class A related victim**

14 A class A related victim is eligible to apply for any of the following:

- 15 (a) an immediate need payment;
16 (b) an economic loss payment;
17 (c) a recognition payment.

18 **21** **Class B related victim**

19 A class B related victim is eligible to apply for any of the following:

- 20 (a) an immediate need payment;
21 (b) an economic loss payment;
22 (c) a recognition payment.

1 **22 Class C related victim**

2 A class C related victim is eligible to apply for any of the following:

- 3 (a) an immediate need payment;
4 (b) an economic loss payment.

5 **23 Homicide witness**

6 A homicide witness is eligible to apply for any of the following:

- 7 (a) an immediate need payment;
8 (b) an economic loss payment.

9 **Division 3.2 Amount of financial assistance**

10 **24 Maximum total financial assistance**

11 The maximum total amount of financial assistance that may be
12 given to a person for an application for financial assistance is the
13 amount prescribed by regulation.

14 **25 CPI indexation of certain prescribed amounts**

15 (1) An amount prescribed by regulation under the following sections
16 must be amended each year in line with variations in the CPI that
17 happen after the commencement of the regulation in which the
18 amount is prescribed:

- 19 (a) section 24 (Maximum total financial assistance);
20 (b) section 28 (Recognition payment for primary victim);
21 (c) section 29 (Recognition payment for class A related victim);
22 (d) section 30 (Recognition payment for class B related victim).

- 1 (2) However, if an amount required to be amended in accordance with
2 subsection (1) would be reduced because of a reduction in the CPI
3 (a *negative adjustment*), the amount must not be amended in line
4 with the negative adjustment.
- 5 (3) An amount that, in accordance with subsection (2), is not reduced
6 may be increased in line with an adjustment in the CPI that would
7 increase the amount only to the extent that the increase, or part of
8 the increase, is not one that would cancel out the effect of the
9 negative adjustment.
- 10 (4) Subsection (3) does not apply to a negative adjustment once the
11 effect of the negative adjustment has been offset against an increase
12 in line with an adjustment in the CPI.

13 **Example—adjustments**

14 An amount prescribed by regulation is \$100. There is a 20% increase in the CPI
15 after the section commences. The amount prescribed becomes \$120
16 (\$100 + 20%).

17 There is then a 10% drop in the CPI. The amount does not change from \$120
18 (although if it had changed it would be \$108).

19 There is a 20% increase in the CPI. The 20% increase is not to the \$120, but to the
20 \$108. $\$108 + 20\% = \129.60 . So the \$120 becomes \$129.60. This is the amount
21 (\$120) increased by so much of the 20% increase that did not cancel out the effect
22 of the adjustment down to \$108.

23 *Note* An example is part of the Act, is not exhaustive and may extend, but
24 does not limit, the meaning of the provision in which it appears (see
25 [Legislation Act](#), s 126 and s 132).

- 26 (5) In this section:

27 *CPI* means the All Groups Consumer Price Index (Canberra) issued
28 by the Australian statistician.

1 **Division 3.3 Financial assistance**

2 **26 Immediate need payment**

- 3 (1) A financial payment (an *immediate need payment*) may be made to
4 a person for reasonable expenses incurred, or expected to be
5 incurred, for an immediate need that is related to an act of violence.
- 6 (2) For this section, an expense is a reasonable expense if payment of
7 the expense, at the time the application is made, is likely to—
- 8 (a) promote the recovery of the person; or
9 (b) prevent further harm to the person; or
10 (c) limit further threats to the safety of the person.
- 11 (3) A regulation may prescribe the following:
- 12 (a) a particular immediate need for which an immediate need
13 payment may be made;
- 14 (b) a condition, if any, to making the immediate need payment;
- 15 (c) the maximum amount, if any, of the payment for the need;
- 16 (d) the maximum amount, if any, of all immediate need payments
17 that may be made in relation to a single act of violence.

18 **27 Economic loss payment**

- 19 (1) A financial payment (an *economic loss payment*) may be made to a
20 person for economic loss sustained as a result of an act of violence.
- 21 (2) A regulation may prescribe the following:
- 22 (a) economic loss for which an economic loss payment may be
23 made;
- 24 (b) a condition, if any, to making the economic loss payment;
- 25 (c) the maximum amount, if any, of the payment for the loss;

- 1 (d) the maximum amount, if any, of all economic loss payments
2 that may be made in relation to a single act of violence.

3 **28 Recognition payment for primary victim**

- 4 (1) A financial payment (a *recognition payment*) may be made to a
5 primary victim for trauma experienced by the primary victim as a
6 result of an act of violence.
- 7 (2) A regulation may prescribe the following:
- 8 (a) an offence in the course of which the act of violence must
9 occur for a recognition payment to be made;
- 10 (b) the amount of the recognition payment—
- 11 (i) generally; and
- 12 (ii) if a circumstance of aggravation applies to the offence in
13 the course of which the act of violence occurs; and
- 14 (iii) if the act of violence results in a very serious injury that is
15 likely to be permanent in the primary victim.

16 **29 Recognition payment for class A related victim**

- 17 (1) A financial payment (a *recognition payment*) may be made to a
18 class A related victim for trauma experienced by the class A related
19 victim as a result of an act of violence against a primary victim.
- 20 (2) A recognition payment for a class A related victim is a payment of
21 the amount prescribed by regulation.

22 **30 Recognition payment for class B related victim**

- 23 (1) A financial payment (a *recognition payment*) may be made to a
24 class B related victim for trauma experienced by the class B related
25 victim as a result of an act of violence against a primary victim.
- 26 (2) A recognition payment for a class B related victim is a payment of
27 the amount prescribed by regulation.

1 **Division 3.4 Applications for financial assistance**

2 **31 Application to commissioner**

3 (1) A person (the *applicant*) may apply to the commissioner for
4 financial assistance.

5 (2) An application for financial assistance must—

6 (a) be in writing; and

7 (b) include a contact address for the applicant; and

8 (c) indicate the financial assistance payment that the applicant
9 wishes to claim; and

10 (d) be accompanied by evidence that—

11 (i) the act of violence that is the subject of the application
12 has been reported to a police officer; or

13 (ii) if the applicant is a special reporting class victim and the
14 application does not include a claim for a recognition
15 payment—the act of violence that is the subject of the
16 application has been reported in accordance with
17 subsection (4).

18 *Note* If a form is approved under s 100 for an application, the form must be
19 used.

20 (3) An applicant is a *special reporting class victim* if, in relation to an
21 act of violence that is the subject of an application, the applicant is a
22 primary victim—

23 (a) of a sexual offence; or

24 (b) of an offence in which the person responsible for the act of
25 violence against the primary victim was in a position of power,
26 trust or authority in relation to the primary victim; or

27 (c) who has impaired physical, psychological or intellectual
28 capacity; or

- 1 (d) who was under 18 years old when the act of violence occurred;
2 or
- 3 (e) who did not report the act of violence to police because of
4 threats made, or intimidation by, another person.
- 5 (4) For subsection (2) (d) (ii), an applicant who is a special reporting
6 class victim reports an act of violence in accordance with this
7 section if—
- 8 (a) for an application applying for an immediate need payment
9 only—the applicant reported the act to at least 2 of the
10 following:
- 11 (i) a government agency;
- 12 (ii) a doctor or a psychologist or a counsellor or a
13 social worker;
- 14 (iii) an appropriately qualified non-government agency; or
- 15 (b) for an application applying for an immediate need payment and
16 an economic loss payment, or for an economic loss payment
17 only—the applicant reported the act to both of the following:
- 18 (i) a government agency;
- 19 (ii) a doctor or a psychologist or a counsellor or a
20 social worker.
- 21 (5) In this section:
- 22 ***appropriately qualified non-government agency*** means an agency
23 specified by the commissioner as an appropriately qualified
24 non-government agency in the commissioner’s guidelines under
25 section 87 (Commissioner’s guidelines).

- 1 **32** **Time for making application**
- 2 (1) An application under section 31 must be made within 3 years of the
- 3 last occurring of the following:
- 4 (a) the day of the act of violence that is the subject of the
- 5 application;
- 6 (b) if there are 2 or more relevant acts of violence—the day of the
- 7 most recent act of violence;
- 8 (c) for an application by an individual who was under 18 years old
- 9 on the day mentioned in paragraph (a) or (b)—the day the
- 10 individual turns 18.
- 11 (2) The commissioner may extend the time for making an application if
- 12 the commissioner believes on reasonable grounds that an extension
- 13 is in the interests of fairness having regard to the following:
- 14 (a) the age of the person when the act of violence that is the
- 15 subject of the application occurred;
- 16 (b) whether the applicant has, or had, impaired physical,
- 17 psychological or intellectual capacity;
- 18 (c) whether the person responsible for the act of violence that is
- 19 the subject of the application was in a position of power, trust
- 20 or authority in relation to the primary victim;
- 21 (d) the physical and psychological effect of the act of violence that
- 22 is the subject of the application on the applicant;
- 23 (e) whether the extension of time will prevent a fair consideration
- 24 of the application;
- 25 (f) any other matter that the commissioner believes on reasonable
- 26 grounds is relevant.

1 **33 Notice of repayment and recovery procedures**

2 (1) As soon as practicable after the day the commissioner receives an
3 application under section 31 (Application to commissioner) the
4 commissioner must give the applicant written notice about the
5 action that may be taken against—

6 (a) an applicant under part 5 (Repayment of financial assistance
7 and funeral expenses by assisted person); and

8 (b) an offender under part 6 (Recovery from offender).

9 (2) The notice must also state that, if financial assistance is given to the
10 applicant, the person responsible for the act of violence that is the
11 subject of the application may be contacted by the commissioner to
12 recover some or all of the financial assistance given.

13 **34 Withdrawal of application**

14 An application for financial assistance may be withdrawn by the
15 applicant, at any time, by written notice given to the commissioner.

16 *Note* If a form is approved under s 100 for this provision, the form must be
17 used.

18 **35 Amendment of application before commissioner's
19 decision**

20 An application for financial assistance may be amended by the
21 applicant, at any time before the commissioner has decided the
22 application, by written notice given to the commissioner.

23 *Note* If a form is approved under s 100 for this provision, the form must be
24 used.

25 **36 Application lapses if no contact with commissioner**

26 (1) This section applies if an applicant does not contact the
27 commissioner within 6 months after the day the commissioner gives
28 notice under section 33 (Notice of repayment and recovery
29 procedures).

1 (2) The commissioner must give the applicant notice that the
2 application will lapse under subsection (3) unless the applicant
3 makes contact with the commissioner within 6 months.

4 (3) If the applicant does not make contact with the commissioner within
5 6 months after notice is given under subsection (2), the application
6 lapses.

7 (4) If an application lapses under this section, an applicant may reapply
8 for financial assistance under this part.

9 *Note* See s 32 (Time for making application).

10 **37 Application lapses on death of applicant**

11 If an applicant for financial assistance dies before the application is
12 finally decided, the application lapses.

13 **Division 3.5 Commissioner may ask for**
14 **information when deciding**
15 **applications for financial assistance**

16 **38 Power to ask for further information**

17 When deciding an application for financial assistance the
18 commissioner may—

19 (a) make any inquiries that the commissioner believes on
20 reasonable grounds are relevant to the application; and

21 (b) by written notice, ask the applicant to give the commissioner
22 the following:

1 (i) further information, specified by the commissioner, about
2 the application;

3 **Examples—further information**

4 1 details about a complaint or report made to police about an act of
5 violence

6 2 details about a report made to an agency providing assistance for
7 domestic violence about a domestic violence incident

8 *Note* An example is part of the Act, is not exhaustive and may
9 extend, but does not limit, the meaning of the provision in
10 which it appears (see [Legislation Act](#), s 126 and s 132).

11 (ii) an authorisation that allows the commissioner to obtain
12 further information about the application from another
13 person.

14 **39 Power to ask for examination by health practitioner**

15 (1) When deciding an application for financial assistance, the
16 commissioner may ask the applicant to—

17 (a) submit to an examination by a health practitioner; and

18 (b) arrange for a report of the examination to be given to the
19 commissioner.

20 (2) Despite any law or duty requiring a health practitioner to maintain
21 the confidentiality of health examinations, a health practitioner may
22 give the commissioner—

23 (a) a report about an examination conducted under this section;
24 and

25 (b) any other information the health practitioner considers is
26 relevant to the report about the examination.

27 *Note* It is an offence for an official to divulge protected information
28 (see s 89 (1)).

29 (3) If the commissioner asks for an examination under this section the
30 commissioner must pay for the examination.

- 1 **40 Power to ask for information from chief police officer**
- 2 (1) When deciding an application for financial assistance in relation to
- 3 an act of violence, the commissioner may ask the chief police
- 4 officer or an investigating police officer (the *requested officer*)
- 5 for—
- 6 (a) information and documents about the following:
- 7 (i) the facts about the act of violence that is the subject of the
- 8 application;
- 9 (ii) the progress of an investigation into the act of violence
- 10 that is the subject of the application (including the police
- 11 officer responsible for investigating the act of violence);
- 12 (iii) if a proceeding is not started in relation to the act of
- 13 violence that is the subject of the application—the reasons
- 14 for not starting a proceeding;
- 15 (iv) if a proceeding is started for the act of violence that is the
- 16 subject of the application—details of the following:
- 17 (A) the charges laid against the person alleged to have
- 18 engaged in the act of violence that is the subject of
- 19 the application;
- 20 (B) the place and date of hearing of the proceeding;
- 21 (C) the outcome of the proceeding, including any
- 22 sentence imposed;
- 23 (D) the outcome of any appeal;
- 24 (E) if the proceeding is discontinued—the reasons for
- 25 discontinuation of the proceeding; and
- 26 (b) a copy of any person’s statement about the act of violence that
- 27 is the subject of the application; and

- 1 (c) clarification about any of the information mentioned in
2 paragraph (a), including any changes to the information
3 previously provided.
- 4 (2) The requested officer must comply with a request under
5 subsection (1) if the officer has possession of, or access to, the
6 information or documents requested.
- 7 (3) However, the requested officer must not give the commissioner
8 information or documents about an investigation relating to an act of
9 violence that is the subject of the application if the officer believes
10 on reasonable grounds that giving the information or documents
11 may—
- 12 (a) prejudice an investigation to which the information may be
13 relevant; or
- 14 (b) lead to the identification of an informer; or
- 15 (c) affect the safety of any person.
- 16 (4) If the requested officer decides under subsection (3) not to comply
17 with a request under subsection (1) the officer must—
- 18 (a) notify the commissioner that the officer will not comply with
19 the request; and
- 20 (b) give reasons for not complying with the request.
- 21 (5) If the requested officer provides a copy of a person's statement
22 mentioned in subsection (1)(b), the officer must remove all
23 particulars identifying the maker of the statement except particulars
24 the officer believes are relevant to assist the commissioner to decide
25 the application.

1 (6) Giving information or documents under this section is authorised
2 despite any other territory law, including a law imposing an
3 obligation to maintain confidentiality about the information or
4 documents.

5 *Note* It is an offence for an official to divulge protected information
6 (see s 89 (1)).

7 (7) In this section:

8 *investigating police officer*, in relation to an act of violence, means
9 the police officer who is in charge of investigating the act of
10 violence.

11 **41 Power to ask for information from registrar**

12 (1) When deciding an application for financial assistance in relation to
13 an act of violence, the commissioner may ask the registrar for
14 information about a proceeding started for the act of violence that is
15 the subject of the application.

16 (2) The information that may be requested includes information about
17 the following:

18 (a) the charges laid against the person alleged to have engaged in
19 the act of violence that is the subject of the application;

20 (b) the charges laid against another person alleged to have
21 conspired with the person alleged to have engaged in the act of
22 violence that is the subject of the application;

23 (c) the place and date of hearing of the proceeding;

24 (d) the outcome of the proceeding, including any sentence
25 imposed;

26 (e) the outcome of any appeal.

- 1 (3) The registrar must give the information requested under
2 subsection (2) to the commissioner, unless the registrar is satisfied
3 on reasonable grounds that giving the information is—
4 (a) contrary to a law in force in the Territory; or
5 (b) otherwise inappropriate.
- 6 (4) The information may be given by allowing the commissioner access
7 to electronic information maintained by the registrar.
- 8 (5) If the commissioner accesses electronic information it may only be
9 used in connection with the information requested under
10 subsection (2).
- 11 (6) This section is additional to any other Act that provides for
12 information to be given by a registrar.

13 *Note* A reference to an Act includes a reference to the statutory instruments
14 made or in force under the Act, including any regulation (see
15 [Legislation Act](#), s 104).

16 **Division 3.6** **Deciding applications for financial**
17 **assistance**

18 **42** **Time for deciding application for financial assistance**

- 19 (1) The commissioner must decide an application for financial
20 assistance as soon as reasonably practicable after—
21 (a) the day the commissioner receives the application; or
22 (b) if the commissioner asks for information under division 3.5
23 (Commissioner may ask for information when deciding
24 applications for financial assistance)—the day the information
25 is given to the commissioner.
- 26 (2) If an application for financial assistance includes a claim for an
27 immediate need payment, the commissioner must give priority to a
28 decision about the claim (the *expedited decision*) before deciding
29 any other claim in the application.

1 **43 Deciding matters relevant to application for financial**
2 **assistance generally**

3 The commissioner must be satisfied on the balance of probabilities
4 about the existence of any matter relevant to deciding an application
5 for financial assistance.

6 **Examples—matter relevant to an application for financial assistance**

- 7 1 whether an offence has occurred
8 2 whether a circumstance of aggravation applies to an offence
9 3 whether a circumstance in which financial assistance must not be given
10 applies
11 4 whether an application involves related conduct
12 5 whether an injury was caused by an act of violence
13 6 whether an economic loss was caused by an act of violence
14 7 the nature and extent of an injury
15 8 the nature and amount of an economic loss

16 *Note* An example is part of the Act, is not exhaustive and may extend, but
17 does not limit, the meaning of the provision in which it appears (see
18 [Legislation Act](#), s 126 and s 132).

19 **44 Deciding whether applications involve related acts of**
20 **violence**

21 (1) This section applies if a person makes 2 or more separate
22 applications for financial assistance under division 3.4 (Applications
23 for financial assistance).

24 (2) The commissioner must review the applications to work out if the
25 applications are for acts of violence that occur in the course of a
26 series of offences that are related.

27 **Examples—series of offences that are related**

- 28 1 offences with same offender and same primary victim
29 2 contemporaneous or near contemporaneous offences

30 *Note* An example is part of the Act, is not exhaustive and may extend, but
31 does not limit, the meaning of the provision in which it appears (see
32 [Legislation Act](#), s 126 and s 132).

- 1 (3) Acts of violence that occur in the course of a series of offences that
2 are related must be treated as a single act of violence—
- 3 (a) if the series of offences are, or are likely to be, part of a single
4 ongoing offence; or
- 5 (b) if the effect of treating each act of violence separately would
6 result in the applicant receiving a total amount of financial
7 assistance that would be disproportionately more than the
8 amount of financial assistance that would be appropriate for
9 the totality of harm suffered by the applicant as a result of the
10 acts; or
- 11 (c) in circumstances prescribed by regulation.
- 12 (4) If the commissioner is satisfied that the acts of violence that are the
13 subject of separate applications appear to be a single act of violence,
14 the commissioner must give the applicant written notice—
- 15 (a) that the separate applications for financial assistance appear to
16 disclose a series of offences that are related, and that without
17 further information suggesting otherwise the acts of violence
18 occurring in the course of the offences must be treated as a
19 single act of violence; and
- 20 (b) asking the applicant to tell the commissioner, in writing, within
21 14 days after the notice is received, if there is a reason why the
22 acts of violence should not be treated as a single act of
23 violence.
- 24 (5) After considering any reasons given by the applicant in response to
25 notice under subsection (4) the commissioner must—
- 26 (a) decide whether or not to treat the acts of violence as a single
27 act of violence; and
- 28 (b) tell the applicant, by written notice, the commissioner's
29 decision.

1 (6) If the commissioner decides to treat the acts of violence as a single
2 act of violence, the separate applications are taken to be a single
3 application for financial assistance.

4 (7) If the commissioner decides to treat the separate applications as a
5 single application under this section the commissioner must, for an
6 application that includes a primary victim's claim for a recognition
7 payment, decide whether the acts of violence amount to a
8 circumstance of aggravation.

9 **45 Circumstances in which financial assistance must not be**
10 **given**

11 (1) This section applies if the commissioner believes on reasonable
12 grounds that any of the following (a *disqualifying circumstance*)
13 apply in relation to an applicant for financial assistance:

14 (a) the applicant is not eligible for the assistance;

15 (b) the applicant conspired with the person responsible for the act
16 of violence that is the subject of the application for assistance;

17 (c) the applicant was involved in a serious crime when the act of
18 violence that is the subject of the application occurred and the
19 serious crime was the main reason that the act of violence
20 occurred;

21 (d) the applicant is claiming financial assistance as a related victim
22 for the act of violence that is the subject of the application that
23 was related to a serious crime carried out by the primary
24 victim;

25 (e) the applicant has unreasonably failed to give assistance to the
26 police in relation to the act of violence that is the subject of the
27 application.

- 1 (2) The commissioner must give the applicant written notice—
- 2 (a) stating that the application for financial assistance appears to
- 3 involve a disqualifying circumstance described in the notice,
- 4 and without further information suggesting otherwise financial
- 5 assistance will not be given; and
- 6 (b) asking the applicant to tell the commissioner, in writing, within
- 7 14 days after the notice is received, if there is a reason why the
- 8 disqualifying circumstance does not apply.
- 9 (3) After considering any reasons given by the applicant in response to
- 10 notice under subsection (2), the commissioner must—
- 11 (a) decide whether or not a disqualifying circumstance applies in
- 12 relation to the applicant; and
- 13 (b) tell the applicant, by written notice, the commissioner’s
- 14 decision.
- 15 (4) If the commissioner decides that a disqualifying circumstance
- 16 applies in relation to an applicant the commissioner must not give
- 17 financial assistance to the applicant.
- 18 (5) In this section:
- 19 *serious crime* means any of the following:
- 20 (a) an offence against the person;
- 21 (b) a sexual offence;
- 22 (c) an offence relating to property;
- 23 (d) an offence against the [Criminal Code](#), chapter 6 (Serious drug
- 24 offences) other than section 618 (Cultivating controlled plant);
- 25 (e) an offence involving dishonesty;

- 1 (f) an offence against a law of the Commonwealth or a State
2 corresponding to a provision of the [Criminal Code](#), part 2.4
3 (Extensions of criminal responsibility) or section 717
4 (Accessory after the fact) in relation to an offence mentioned in
5 paragraphs (a) to (e).

6 *Note* A reference to an offence against a territory law includes a reference to
7 a related ancillary offence, eg attempt (see [Legislation Act](#), s 189).

8 **46 Deciding amount of financial assistance**

9 (1) The commissioner must decide the amount of financial assistance
10 that may be given to an applicant for financial assistance if the
11 commissioner—

12 (a) believes on reasonable grounds that the applicant is eligible to
13 apply for the assistance under division 3.1 (Eligibility); and

14 (b) is satisfied that the application for the assistance complies with
15 division 3.4 (Applications for financial assistance); and

16 (c) has decided under section 45, that no disqualifying
17 circumstances apply in relation to the applicant.

18 (2) The commissioner must—

19 (a) for an application that includes a claim for an immediate need
20 payment—

21 (i) consider the extent to which services are available to the
22 applicant—

23 (A) under the victims services scheme; and

24 (B) from other sources; and

25 (ii) decide the immediate needs the applicant has; and

26 (iii) decide the immediate need payment to be made to the
27 applicant; and

- 1 (b) for an application that includes a claim for an economic loss
2 payment—
- 3 (i) consider the extent to which services are available to the
4 applicant—
- 5 (A) under the victims services scheme; and
6 (B) from other sources; and
- 7 (ii) decide the applicant's economic loss; and
8 (iii) decide the economic loss payment to be made to the
9 applicant; and
- 10 (c) for an application that includes a claim for a recognition
11 payment—
- 12 (i) identify the act of violence that is the subject of the
13 application; and
- 14 (ii) for a primary victim—
- 15 (A) decide whether the act of violence occurs in a
16 circumstance of aggravation; and
- 17 (B) decide whether the act of violence caused a very
18 serious injury that is likely to be permanent; and
- 19 (iii) decide the recognition payment to be made to the
20 applicant; and
- 21 (d) if section 47 applies—reduce the amount in accordance with
22 that section.
- 23 (3) The commissioner must tell the applicant, by written notice, the
24 commissioner's decision.

- 1 **47 Reducing amount of financial assistance**
- 2 (1) This section applies if the commissioner believes on reasonable
3 grounds that, for an act of violence that is the subject of an
4 application for financial assistance, the applicant has—
- 5 (a) received an associated payment covering the same harm or loss
6 as the financial assistance is intended to cover; or
- 7 (b) previously been required to repay an amount under
8 part 5 (Repayment of financial assistance and funeral expenses
9 by assisted person) and has not repaid the amount; or
- 10 (c) previously been required to repay an amount under
11 part 6 (Recovery from offender) and has not repaid the amount;
12 or
- 13 (d) been involved in contributory conduct.
- 14 (2) The commissioner must reduce the amount of financial assistance to
15 the applicant by an amount—
- 16 (a) if circumstances mentioned in subsection (1) (a) apply—equal
17 to the associated payment; or
- 18 (b) if circumstances mentioned in subsection (1) (b) or (c) apply—
19 equal to the outstanding repayment amount; or
- 20 (c) if circumstances mentioned in subsection (1) (d) apply—that
21 the commissioner is satisfied is appropriate, taking into
22 account the applicant’s contributory conduct.
- 23 (3) In this section:
- 24 ***contributory conduct*** means any of the following conduct by the
25 applicant:
- 26 (a) conduct that contributed to the injury suffered by the applicant
27 as a result of the act of violence that is the subject of the
28 application;

- 1 (b) participating in or assisting in the act of violence that is the
2 subject of the application;
- 3 (c) encouraging someone else to participate in or assist in the act
4 of violence that is the subject of the application;
- 5 (d) failing to take reasonable steps to mitigate the extent of injury
6 that arose from the act of violence.

7 **48 How financial assistance may be given**

8 If the commissioner has decided the amount of financial assistance
9 that an applicant for the assistance is entitled to receive, the
10 assistance may be given in any of the following ways:

- 11 (a) as a single payment, or a series of payments, to the applicant;
- 12 (b) as payment of an invoice for, or on behalf of, the applicant;
- 13 (c) as a refund of expenditure incurred by, or on behalf of, the
14 applicant.

15 **Division 3.7 Variation of amount of financial**
16 **assistance**

17 **49 Application to vary amount of financial assistance**
18 **previously received**

- 19 (1) A person may apply to the commissioner to vary an amount of
20 financial assistance received by the person (an *earlier assistance*
21 *payment*) only if, the person's circumstances have changed, or are
22 likely to change, since the earlier assistance payment.
- 23 (2) An application under subsection (1) must—
- 24 (a) be made within 7 years after the day the commissioner first
25 gives financial assistance to the person; and
- 26 (b) state particulars about—
- 27 (i) the earlier assistance payment; and

- 1 (ii) the variation sought to the earlier assistance payment; and
2 (iii) the act of violence to which the earlier assistance payment
3 relates; and
4 (iv) how the person's circumstances have changed or are
5 likely to change; and
6 (c) include any other information prescribed by regulation.

7 *Note* If a form is approved under s 100 for an application, the form must be
8 used.

- 9 (3) Only 1 application may be made under this section in a year unless
10 the commissioner is reasonably satisfied that exceptional
11 circumstances exist to allow more than 1 application to be made in
12 the year.

13 **50 Deciding varied amount of financial assistance**

- 14 (1) If the commissioner receives an application under section 49, the
15 commissioner must decide whether to—
16 (a) refuse to increase the amount of financial assistance to the
17 applicant; or
18 (b) agree to increase the amount of financial assistance to the
19 applicant, and work out the amount of the increase.

1 (2) However, if the commissioner decides to increase the amount of
2 financial assistance, the total amount of all financial assistance to
3 the applicant for the act of violence that is the subject of the
4 application must not, including the increased amount, be more than
5 the maximum financial assistance amounts that applied when
6 financial assistance was first given to the applicant for the act of
7 violence.

8 **Examples—maximum financial assistance amounts**

- 9 1 the maximum total financial assistance payable for an application for
10 financial assistance under s 24 (Maximum total financial assistance)
11 2 for an immediate need payment—the maximum amount payable for—
12 (a) a particular need; and
13 (b) all immediate needs
14 3 for an economic loss payment—the maximum amount payable for—
15 (a) a particular loss; and
16 (b) all losses

17 *Note* An example is part of the Act, is not exhaustive and may extend, but
18 does not limit, the meaning of the provision in which it appears (see
19 [Legislation Act](#), s 126 and s 132).

20 (3) The following divisions apply to the commissioner when deciding
21 an application under section 49 (a *variation application*) as if a
22 reference to an application for financial assistance in the divisions
23 was a reference to a variation application:

- 24 (a) division 3.5 (Commissioner may ask for information when
25 deciding applications for financial assistance);
26 (b) division 3.6 (Deciding applications for financial assistance).

27 (4) The commissioner must—

- 28 (a) tell the person, by written notice, the commissioner's decision
29 under subsection (1); and
30 (b) if the decision is to increase the amount of financial
31 assistance—arrange for payment of the increased amount.

1 **Part 4 Funeral expenses**

2 **51 Eligibility to apply for funeral expense payment**

3 A person is eligible to apply to the commissioner for a funeral
4 expense payment if the person has paid, or is required to pay, the
5 costs of a funeral for a primary victim who died as a result of
6 homicide.

7 **52 Application for funeral expense payment**

8 An application for a funeral expense payment must—

- 9 (a) be in writing; and
10 (b) include a contact address for the person making the application
11 (the *applicant*); and
12 (c) contain any other information, and comply with any other
13 requirement, prescribed by regulation for the application.

14 *Note* If a form is approved under s 100 for an application, the form must be
15 used.

16 **53 Amount of funeral expense payment**

17 The maximum amount of a funeral expense payment under this part
18 is the lesser of the following:

- 19 (a) the reasonable costs of a funeral that is the subject of an
20 application under section 52;
21 (b) an amount prescribed by regulation as the maximum funeral
22 expense payment.

23 **54 Time for making application for funeral expense payment**

24 An application under section 52 must be made within 3 years after
25 the day of the death of the primary victim.

1 **55** **Notice of repayment and recovery procedures to**
2 **applicant for funeral expense payment**

- 3 (1) As soon as practicable after the day the commissioner receives an
4 application under section 52 the commissioner must give the
5 applicant written notice about the action that may be taken against—
6 (a) an applicant under part 5 (Repayment of financial assistance
7 and funeral expenses by assisted person); and
8 (b) an offender under part 6 (Recovery from offender).
9 (2) The notice must also state that, if a funeral expense payment is made
10 to the applicant, the person responsible for the act of violence that
11 resulted in the death of the primary victim may be contacted by the
12 commissioner to recover some or all of the payment.

13 **56** **Withdrawal of application for funeral expense payment**

14 An application under section 52 may be withdrawn by the applicant,
15 at any time, by written notice given to the commissioner.

16 *Note* If a form is approved under s 100 for this provision, the form must be
17 used.

18 **57** **Amendment of application before commissioner's**
19 **decision for funeral expense payment**

20 An application under section 52 may be amended by the applicant,
21 at any time before the commissioner has decided the application, by
22 written notice given to the commissioner.

23 *Note* If a form is approved under s 100 for this provision, the form must be
24 used.

- 1 **58 Application for funeral expense payment lapses if no**
2 **contact with commissioner**
- 3 (1) This section applies if an applicant does not contact the
4 commissioner within 6 months after the day the commissioner gives
5 notice under section 55 (Notice of repayment and recovery
6 procedures to applicant for funeral expense payment).
- 7 (2) The commissioner must give the applicant notice that the
8 application will lapse under subsection (3) unless the applicant
9 makes contact with the commissioner within 6 months.
- 10 (3) If the applicant does not make contact with the commissioner within
11 6 months after notice is given under subsection (2), the application
12 lapses.
- 13 (4) If an application lapses under this section, an applicant may reapply
14 for a funeral expense payment under this part.
- 15 *Note* See s 54 (Time for making application for funeral expense payment).
- 16 **59 Application lapses on death of applicant for funeral**
17 **expense payment**
- 18 If an applicant for a funeral expense payment dies before the
19 application is finally decided, the application lapses.
- 20 **60 Deciding application for funeral expense payment**
- 21 (1) The commissioner must decide—
- 22 (a) whether a funeral expense payment is payable; and
- 23 (b) if the payment is payable—the amount of the funeral expense
24 payment.

- 1 (2) The following divisions apply to the commissioner when deciding
2 an application under section 52 (a *funeral expense payment*
3 *application*) as if a reference to an application for financial
4 assistance in the divisions was a reference to a funeral expense
5 payment application:
- 6 (a) division 3.5 (Commissioner may ask for information when
7 deciding applications for financial assistance);
- 8 (b) division 3.6 (Deciding applications for financial assistance).
- 9 (3) The commissioner must tell the applicant, by written notice, the
10 commissioner's decision.

11 **61 How funeral expense payment may be given**

- 12 If the commissioner has decided the amount of a funeral expense
13 payment that an applicant for the payment is entitled to receive, the
14 payment may be given in any of the following ways:
- 15 (a) as a single payment, or a series of payments, to the applicant;
- 16 (b) as payment of an invoice for, or on behalf of, the applicant;
- 17 (c) as a refund of expenditure incurred by, or on behalf of, the
18 applicant.

1 **Part 5** **Repayment of financial**
2 **assistance and funeral expenses**
3 **by assisted person**

4 **62** **Definitions—pt 5**

5 In this part:

6 *repayment amount*, that applies to an assisted person who has
7 received an associated payment, means the lesser of—

8 (a) the amount of financial assistance and a funeral expense
9 payment made to the assisted person; and

10 (b) the amount of the associated payment, or any part of the
11 associated payment, that covers the same harm or loss as an
12 amount mentioned in paragraph (a) was intended to cover.

13 *repayment arrangement notice* means a notice under section 66
14 (Repayment arrangement notice).

15 *repayment direction notice* means a notice under section 67
16 (Repayment direction notice).

17 **63** **Suspension of financial assistance or funeral expense**
18 **payment**

19 (1) This section applies if—

20 (a) a person (the *applicant*) has applied for financial assistance or
21 a funeral expense payment; and

22 (b) the commissioner has decided the amount of—

23 (i) financial assistance that the applicant is entitled to receive
24 under section 46 (Deciding amount of financial
25 assistance); or

- 1 (ii) a funeral expense payment the applicant is entitled to
2 receive under section 60 (Deciding application for funeral
3 expense payment); and
- 4 (c) the applicant is entitled to receive an associated payment in
5 relation to the act of violence that is the subject of the
6 application.
- 7 (2) If the commissioner believes on reasonable grounds that the
8 applicant is entitled to receive a payment that will amount to an
9 associated payment once made, the commissioner may suspend
10 payment of any financial assistance or funeral expense payment
11 until after the associated payment is made.
- 12 (3) If the commissioner believes on reasonable grounds that, despite an
13 entitlement to an associated payment, the payment is unlikely to be
14 made, the commissioner may decide not to suspend payment of any
15 financial assistance or funeral expense payment.

16 **64 Assisted person must notify commissioner about**
17 **associated payment**

- 18 (1) This section applies if an assisted person receives an associated
19 payment after any financial assistance or funeral expense payment is
20 made to the person.
- 21 (2) The assisted person must tell the commissioner, in writing, about the
22 associated payment within 28 days after the day the associated
23 payment is received.
- 24 *Note* If a form is approved under s 100 for this provision, the form must be
25 used.
- 26 (3) An assisted person commits an offence if the person—
- 27 (a) must, under subsection (2), tell the commissioner about an
28 associated payment; and

- 1 (b) fails to tell the commissioner about the associated payment.
2 Maximum penalty: 50 penalty units, imprisonment for 6 months or
3 both.

4 **65 Assisted person liable for repayment amount**

- 5 (1) This section applies if—
6 (a) an assisted person receives an associated payment after
7 receiving financial assistance or a funeral expense payment;
8 and
9 (b) the assisted person—
10 (i) is given a repayment direction notice; and
11 (ii) does not, on or before the repayment date stated in the
12 notice, pay the repayment amount or apply for a review,
13 under section 67 (3) (b), of the repayment direction
14 notice.
15 (2) The assisted person is liable to pay to the Territory the repayment
16 amount that applies to the person.
17 (3) The repayment amount is a debt due to the Territory, payable by the
18 assisted person.

19 *Note* An amount owing under a law may be recovered as a debt in a court of
20 competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

21 **66 Repayment arrangement notice**

- 22 (1) As soon as practicable after receiving information under
23 section 64 (2) the commissioner must give the assisted person
24 written notice (a *repayment arrangement notice*) that includes the
25 following information:
26 (a) the amount that the assisted person received in financial
27 assistance or a funeral expense payment;

- 1 (b) the amount of the associated payment made to the assisted
2 person that covers the same harm or loss as any financial
3 assistance or funeral expense payment mentioned in
4 paragraph (a);
- 5 (c) a statement of the repayment amount that applies to the
6 assisted person;
- 7 (d) a request for the assisted person to contact the commissioner to
8 arrange payment of, or vary, the repayment amount;
- 9 (e) the commissioner's contact details.
- 10 *Note* If a form is approved under s 100 for this provision, the form must be
11 used.
- 12 (2) An assisted person who receives notice under subsection (1) must
13 contact the commissioner within 28 days after receiving the notice
14 to enter an arrangement with the commissioner to do any of the
15 following:
- 16 (a) pay the repayment amount;
- 17 (b) vary the repayment amount.
- 18 (3) The commissioner must take into account the circumstances of the
19 assisted person when deciding an arrangement for repayment or
20 variation of a repayment amount.

21 **67 Repayment direction notice**

- 22 (1) This section applies if—
- 23 (a) the commissioner has given an assisted person a repayment
24 arrangement notice under section 66; and
- 25 (b) the assisted person has not within 28 days after receiving the
26 notice—
- 27 (i) made contact with the commissioner; or
- 28 (ii) paid the repayment amount.

- 1 (2) The commissioner must give the assisted person written notice (a
2 ***repayment direction notice***) that includes the following information:
- 3 (a) a statement of the amount that the assisted person received in
4 financial assistance or a funeral expense payment;
- 5 (b) a statement of the amount of the associated payment made to
6 the assisted person that covers the same harm or loss as any
7 financial assistance or funeral expense payment mentioned in
8 paragraph (a);
- 9 (c) a statement of the repayment amount that applies to the
10 assisted person;
- 11 (d) a date (the ***repayment date***) that is at least 28 days after the day
12 the repayment direction notice is given to the assisted person;
- 13 (e) a statement that—
- 14 (i) the person must pay the repayment amount on or before
15 the repayment date unless the person applies to the ACAT
16 for review of the repayment direction notice; and
- 17 (ii) that the repayment amount is a debt due to the Territory,
18 payable by the assisted person, unless the person on or
19 before the repayment date either pays the repayment
20 amount or applies to the ACAT for review of the
21 repayment direction notice;
- 22 (f) information about review of the repayment direction notice by
23 the ACAT.
- 24 *Note* If a form is approved under s 100 for this provision, the form must be
25 used.
- 26 (3) An assisted person who is given notice under subsection (2) must,
27 on or before the repayment date—
- 28 (a) pay the commissioner the repayment amount; or

1 (b) apply to the ACAT for review of the repayment direction
2 notice.

3 (4) An application for review under subsection (3) (b) stays the assisted
4 person's liability to pay the repayment amount.

5 (5) However, dismissal of the assisted person's application for review
6 removes the stay of liability.

7 **68 Death of assisted person before repayment made**

8 If an assisted person who has been given a repayment arrangement
9 notice under section 66 dies before repaying all, or part, of the
10 repayment amount stated in the notice (the *outstanding amount*),
11 the commissioner must not seek to recover the outstanding amount
12 from the estate of the person.

1 **Part 6 Recovery from offender**

2 **69 Definitions—pt 6**

3 In this part:

4 *offender* means a person convicted or found guilty of a
5 recompensed offence.

6 *recompensed offence* means—

- 7 (a) an offence for which financial assistance has been received by
8 a person; or
9 (b) an offence of murder, manslaughter or culpable driving that
10 results in the death of a primary victim whose funeral was the
11 subject of a funeral expenses payment.

12 *recoverable amount*, that applies to an offender, means the
13 following:

- 14 (a) if the recompensed offence is an offence mentioned in the
15 definition of *recompensed offence*, paragraph (a)—the amount
16 of financial assistance given to a person as a result of the
17 offence;
18 (b) if the recompensed offence is an offence mentioned in the
19 definition of *recompensed offence*, paragraph (b)—the amount
20 of a funeral expense payment for the funeral costs of a primary
21 victim of the offence.

22 *recovery action*, by the commissioner, means action under this part
23 to recover a recoverable amount from an offender who is liable to
24 pay the amount.

25 *recovery intention notice*—see section 74.

26 *recovery notice* means a notice under section 77.

1 **70 Offender liable to repay recoverable amount**

- 2 (1) This section applies if—
- 3 (a) an offender receives a recovery notice for a recoverable
- 4 amount; and
- 5 (b) does not, on or before the recovery date stated in the notice,
- 6 either pay the recoverable amount or apply for a review of the
- 7 recovery notice under section 77 (3) (b).

8 *Note* An amount owing under a law may be recovered as a debt in a court of

9 competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

- 10 (2) The offender is liable to pay to the Territory a recoverable amount
- 11 that applies to the offender.

- 12 (3) The recoverable amount is a debt due to the Territory, payable by
- 13 the offender.

14 *Note* An amount owing under a law may be recovered as a debt in a court of

15 competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

16 **71 Commissioner must decide whether to take recovery**

17 **action etc**

- 18 (1) The commissioner must, as far as practicable, recover a recoverable
- 19 amount from an offender who is liable to pay the amount.

20 **Example**

21 The commissioner does not consider recovery action in a particular case to carry a

22 reasonable prospect of success because the offender is impecunious. It is not

23 practicable for the commissioner to recover a recoverable amount from the

24 offender.

25 *Note* An example is part of the Act, is not exhaustive and may extend, but

26 does not limit, the meaning of the provision in which it appears (see

27 [Legislation Act](#), s 126 and s 132).

- 28 (2) If 2 or more offenders have been convicted or found guilty of a
- 29 recompensed offence, each of the offenders is jointly and severally
- 30 liable under this part.

- 1 (3) If 2 or more offenders have been convicted or found guilty of a
2 recompensed offence, the commissioner may apportion the amount
3 each offender must pay to the Territory.
- 4 (4) If the commissioner decides to recover a recoverable amount from
5 an offender, the commissioner must decide whether the amount
6 should be reduced in accordance with subsection (5).
- 7 (5) In deciding whether a recoverable amount should be reduced, the
8 commissioner must take into account the amount of any repayment
9 by the assisted person under part 5 (Repayment of financial
10 assistance and funeral expenses by assisted person).

11 **72 Commissioner must assess risks associated with**
12 **recovery action**

13 The commissioner must not take, or continue, recovery action
14 without taking into account—

- 15 (a) the objective risks to the safety of any person; and
16 (b) the subjective concerns of an assisted person about the
17 commissioner's contact with an offender or recovery action
18 generally.

19 **73 Commissioner must consult assisted person before**
20 **giving recovery intention notice to offender**

- 21 (1) If the commissioner intends giving an offender a recovery intention
22 notice, the commissioner must tell each assisted person, to whom
23 the offence that is the subject of the recovery notice relates, the
24 following by written notice:
- 25 (a) that the commissioner is taking recovery action;
26 (b) that the commissioner will contact the offender to give the
27 offender a recovery notice;

1 (c) that the assisted person must, within 28 days after the day the
2 notice is given to the person (the *consultation period*), tell the
3 commissioner, in writing, whether the person has any concerns
4 about the commissioner contacting the offender or the action
5 generally.

6 *Note* If a form is approved under s 100 for this provision, the form must be
7 used.

8 (2) The commissioner must, after the end of the consultation period,
9 take into account the matters raised (if any) by an assisted person.

10 **74 Recovery intention notice**

11 (1) This section applies if the commissioner—

12 (a) has complied with section 73; and

13 (b) is satisfied on reasonable grounds that, in all the circumstances,
14 recovery action is still practicable and appropriate.

15 (2) The commissioner must, as soon as practicable, give the offender
16 written notice (a *recovery intention notice*) of the commissioner's
17 intention to recover a recoverable amount from the offender.

18 (3) A recovery intention notice must state the following:

19 (a) that the offender has been convicted or found guilty of a
20 recompensed offence;

21 (b) that a person has received financial assistance, or a funeral
22 expense payment, in relation to the offence;

23 (c) that the offender is liable under this Act to pay the Territory a
24 recoverable amount for the offence, and that the commissioner
25 intends giving the offender a recovery notice for the amount;

26 (d) the recoverable amount;

27 (e) that the offender may object to recovery action against the
28 offender in accordance with subsections (3) and (4);

- 1 (f) any other matter the commissioner considers relevant.
- 2 *Note* If a form is approved under s 100 for this provision, the form must be
3 used.
- 4 (4) The offender may, within 28 days after the day the recovery
5 intention notice is given to the offender, object to recovery action
6 against the offender on the grounds that—
- 7 (a) the offender is not the person who is liable for the recoverable
8 amount; or
- 9 (b) the commissioner has not taken into account that the offender
10 has made, or is required to make, a payment in relation to the
11 recompensed offence in accordance with a court order.
- 12 (5) An objection under subsection (3) must be in writing and include
13 any facts relied on by the offender in support of the objection.
- 14 *Note* If a form is approved under s 100 for this provision, the form must be
15 used.

16 **75 Commissioner may ask registrar for information relevant**
17 **to recovery action**

- 18 (1) The commissioner may, at any time, ask a registrar for information
19 that is relevant to deciding whether to take, or continue, recovery
20 action in relation to an offender.
- 21 (2) Without limiting subsection (1), the commissioner may ask for
22 information about any of the following:
- 23 (a) the identity of a person charged with an offence before a court;
- 24 (b) any matter that might reasonably assist the commissioner to
25 work out the whereabouts of a person charged, convicted or
26 found guilty;
- 27 (c) particulars of the offence;
- 28 (d) the identity of a victim of the offence;

- 1 (e) the identity of a person convicted or found guilty of the
2 offence;
- 3 (f) a sentence imposed for the offence.
- 4 (3) The registrar must give the information requested under
5 subsection (2) to the commissioner, unless the registrar is satisfied
6 on reasonable grounds that giving the information is—
- 7 (a) contrary to a law in force in the Territory; or
8 (b) otherwise inappropriate.
- 9 (4) The information may be given by allowing the commissioner access
10 to electronic information maintained by the registrar.
- 11 (5) If the commissioner accesses electronic information it may only be
12 used in connection with the information requested under
13 subsection (2).
- 14 (6) This section applies in addition to a provision of any other Act that
15 provides for information to be given by a registrar.

16 *Note* A reference to an Act includes a reference to the statutory instruments
17 made or in force under the Act, including any regulation (see
18 [Legislation Act](#), s 104).

19 **76 Commissioner must not give offender confidential**
20 **information**

- 21 (1) The commissioner must not, as far as practicable, in any recovery
22 action, give confidential information about a person who has
23 received financial assistance or a funeral expense payment to the
24 offender convicted or found guilty of the offence to which the
25 assistance or payment relates.
- 26 (2) In this section:
- 27 *confidential information*, about an assisted person, includes the
28 name, contact details, medical or psychological reports, counselling
29 notes or other identifying information about the assisted person.

1 **77 Recovery notice**

- 2 (1) If the commissioner, after giving an offender a recovery intention
3 notice and taking into account any objection to the notice under
4 section 74 (4), is satisfied on reasonable grounds that, in all the
5 circumstances, recovery action from the offender is still practicable
6 and appropriate, the commissioner must give the offender written
7 notice (a *recovery notice*) that includes the following information:
- 8 (a) that the offender has been convicted or found guilty of a
9 recompensed offence;
- 10 (b) that a person has received financial assistance, or a funeral
11 expense payment, in relation to the offence;
- 12 (c) that the offender is liable under this Act to pay the Territory a
13 recoverable amount for the offence;
- 14 (d) that the commissioner has taken into account any objection
15 under section 74 (4);
- 16 (e) the recoverable amount;
- 17 (f) a date (the *recovery date*) that is at least 28 days after the day
18 the recovery notice is given to the assisted person;
- 19 (g) a statement that—
- 20 (i) the offender must pay the recoverable amount on or
21 before the recovery date unless the person applies to the
22 ACAT for review of the recovery notice; and
- 23 (ii) that the recoverable amount is a debt due to the Territory,
24 payable by the offender, unless the person on or before
25 the repayment date either pays the recoverable amount or
26 applies to the ACAT for review of the recovery notice;
- 27 (h) information about review of the recovery notice by the ACAT.

28 *Note* If a form is approved under s 100 for this provision, the form must be
29 used.

- 1 (2) However, a recovery notice for a recompensed offence must not be
2 given to an offender more than 2 years after whichever of the
3 following happens last:
- 4 (a) the date on which the offender is convicted or found guilty of
5 the recompensed offence;
- 6 (b) the date on which—
- 7 (i) for an offence mentioned in section 69, definition of
8 *recompensed offence*, paragraph (a)—financial assistance
9 is given to a person for the recompensed offence; or
- 10 (ii) for an offence mentioned in section 69, definition of
11 *recompensed offence*, paragraph (b)—a funeral expenses
12 payment is made to a person for the funeral of the primary
13 victim.
- 14 (3) An offender who is given a recovery notice under subsection (1)
15 must, on or before the recovery date—
- 16 (a) pay the commissioner the recoverable amount; or
17 (b) apply to the ACAT for review of the recovery notice.
- 18 (4) An application for review under subsection (3) (b) stays the
19 offender's liability to pay the recoverable amount.
- 20 (5) However, dismissal of the offender's application for review removes
21 the stay of liability.

22 **78 Arrangement for payment of recoverable amount**

- 23 (1) This section applies if the commissioner believes on reasonable
24 grounds that timely recovery under this part of a recoverable amount
25 for a recompensed offence is unlikely because of the financial
26 circumstances of the offender.
- 27 (2) The commissioner may make an arrangement with the offender to—
- 28 (a) pay the recoverable amount in instalments; or

- 1 (b) pay an agreed amount (the *agreed recoverable amount*) as a
2 lump sum or in instalments.
- 3 (3) An arrangement under subsection (2) may include conditions that
4 the commissioner believes on reasonable grounds are appropriate
5 for ensuring timely recovery of the recoverable amount.
- 6 (4) The offender's payment of an agreed recoverable amount for a
7 relevant offence discharges the offender from liability to pay the
8 recoverable amount under section 77 (Recovery notice) for the
9 relevant offence.
- 10 (5) However, an amount stated in an arrangement under subsection (2)
11 is, to the extent that the amount is unpaid under the conditions of the
12 arrangement, a debt due to the Territory.

13 *Note* An amount owing under a law may be recovered as a debt in a court of
14 competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

15 **79 Commissioner may ask government agency for**
16 **offender's home address for recovery action**

- 17 (1) If the commissioner decides to take recovery action under this part
18 the commissioner may, at any time, ask a government agency for the
19 offender's home address.
- 20 (2) If a government agency has the information requested under
21 subsection (1) the government agency must give the information to
22 the commissioner unless any other Act, or State or Commonwealth
23 law, prevents the information being given.

24 *Note* A reference to an Act includes a reference to the statutory instruments
25 made or in force under the Act, including any regulation (see
26 [Legislation Act](#), s 104).

- 1 (3) In this section:
- 2 **agency**, of the Commonwealth or a State—
- 3 (a) means—
- 4 (i) a government department, however described, of the
- 5 Commonwealth or State; or
- 6 (ii) a statutory office-holder of the Commonwealth or State;
- 7 or
- 8 (iii) any other entity established for a public purpose under a
- 9 law of the Commonwealth or State; and
- 10 (b) includes the staff of the agency.
- 11 **government agency** means any of the following:
- 12 (a) an administrative unit;
- 13 (b) a Commonwealth or State agency;
- 14 (c) a territory authority;
- 15 (d) a territory instrumentality;
- 16 (e) a territory-owned corporation;
- 17 (f) a statutory office-holder and the staff assisting the statutory
- 18 office-holder.

1 **Part 7** **Victims financial assistance levy**

2 **80** **Meaning of *offence*—pt 7**

3 (1) In this part:

4 *offence* means an offence dealt with by the Supreme Court, the
5 Magistrates Court, or the Childrens Court but does not include—

6 (a) an offence in relation to which a reparation order is made
7 under—

8 (i) the *Crimes (Sentencing) Act 2005*; or

9 (ii) the *Crimes Act 1914* (Cwlth), section 21B; or

10 (b) an offence in relation to which an infringement notice has been
11 served.

12 (2) In this section:

13 *infringement notice* includes an offence notice under the *Drugs of*
14 *Dependence Act 1989*.

15 *Note* The *Legislation Act*, dictionary, pt 1 defines *infringement notice* as
16 including an infringement notice under the *Magistrates Court Act 1930*
17 or the *Road Transport (General) Act 1999*.

18 **81** **Meaning of *convicted* and *convicts*—pt 7**

19 (1) For this part, a person is *convicted* of an offence if—

20 (a) the person is convicted or found guilty of the offence; or

21 (b) if the person is sentenced for another offence—the offence was
22 taken into account by a court when sentencing the person for
23 the other offence; or

24 (c) the person is charged with the offence and an order is made
25 under the *Crimes Act 1914* (Cwlth), section 19B (1) in relation
26 to the offence.

- 1 (2) For this part, a court *convicts* a person if the court makes an order
2 that results in the person being convicted.

3 **82 Imposition of victims financial assistance levy**

- 4 (1) A levy (the *victims financial assistance levy*) is imposed to provide
5 a source of revenue to contribute to the cost of providing financial
6 assistance for victims of crime.

- 7 (2) A person who is convicted of an offence is liable to pay the
8 Territory a victims financial assistance levy of \$50.

9 *Note* A victims financial assistance levy is recoverable under the *Crimes*
10 *(Sentence Administration) Act 2005*, ch 6A (Court imposed fines).

- 11 (3) The victims financial assistance levy is in addition to, and does not
12 form part of, any pecuniary penalty imposed in relation to the
13 offence.

14 **83 Exemptions**

- 15 (1) A court may direct that a person who is under 18 years of age is
16 exempt from liability to pay the victims financial assistance levy.

- 17 (2) A court that convicts a person of an offence (the *first offence*) may
18 direct that the person is exempt from liability to pay the victims
19 financial assistance levy in relation to another offence (the *other*
20 *offence*) if—

21 (a) the conviction for the other offence occurs later on the same
22 day as the first offence; or

23 (b) the court has taken into account the other offence in passing
24 sentence for the first offence.

1 **84 Effect of appeal etc**

- 2 (1) The commencement of any proceedings to appeal against, or review
3 of, a conviction for an offence for which a victims financial
4 assistance levy is imposed on a person stays the person's liability to
5 pay the levy.
- 6 (2) Setting aside a conviction annuls the person's liability to pay the
7 victims financial assistance levy.
- 8 (3) Dismissal of the appeal or review removes the stay of liability.

- 1 (2) The functions of the commissioner under this Act are additional to
2 the functions of the commissioner under the *Victims of Crime*
3 *Act 1994*, section 11.

4 **87 Commissioner's guidelines**

- 5 (1) The commissioner may make guidelines (the *commissioner's*
6 *guidelines*) for—
7 (a) the operation of the financial assistance scheme established
8 under this Act; and
9 (b) the non-government agencies that are appropriately qualified
10 for reporting under section 31 (Application to commissioner).
11 (2) The commissioner's guidelines are notifiable instruments.

12 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

13 **88 Protection of officials from liability**

- 14 (1) An official is not personally liable for anything done or omitted to
15 be done honestly and without recklessness—
16 (a) in the exercise of a function under this Act; or
17 (b) in the reasonable belief that the conduct was in the exercise of
18 a function under this Act.
19 (2) Any liability that would, apart from this section, attach to an official
20 attaches instead to the Territory.

21 *Note* A reference to an Act includes a reference to the statutory instruments
22 made or in force under the Act, including any regulation or guidelines
23 (see [Legislation Act](#), s 104).

- 1 **89 Secrecy**
- 2 (1) An official commits an offence if—
- 3 (a) the official—
- 4 (i) makes a record of protected information about someone
- 5 else; and
- 6 (ii) is reckless about whether the information is protected
- 7 information about someone else; or
- 8 (b) the official—
- 9 (i) does something that divulges protected information about
- 10 someone else; and
- 11 (ii) is reckless about whether—
- 12 (A) the information is protected information about
- 13 someone else; and
- 14 (B) doing the thing would result in the information being
- 15 divulged to someone else.
- 16 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 17 both.
- 18 (2) Subsection (1) does not apply if the record is made, or the
- 19 information is divulged—
- 20 (a) under this Act or another law applying in the Territory; or
- 21 (b) in relation to the exercise of a function as an official under this
- 22 Act or another law applying in the Territory.
- 23 *Note* The defendant has an evidential burden in relation to the matters
- 24 mentioned in s (2) (see [Criminal Code](#), s 58).
- 25 (3) Subsection (1) does not apply to the divulging of protected
- 26 information about someone with the person’s consent.
- 27 *Note* The defendant has an evidential burden in relation to the matters
- 28 mentioned in s (3) (see [Criminal Code](#), s 58).

- 1 (4) An official need not divulge protected information to a court, or
2 produce a document containing protected information to a court,
3 unless it is necessary to do so for this Act or another law applying in
4 the Territory.
- 5 (5) In this section:
- 6 *court* includes a tribunal, authority or person having power to
7 require the production of documents or the answering of questions.
- 8 *divulge* includes communicate.
- 9 *produce* includes allow access to.
- 10 *protected information* means information about a person that is
11 disclosed to, or obtained by, an official because of the exercise of a
12 function under this Act by the official or someone else.

1 **Part 9** **Notification and review of**
2 **decisions**

3 **90** **Definitions—pt 9**

4 In this part:

5 *internally reviewable decision* means a decision mentioned in
6 schedule 2, part 2.1, column 3 under a provision of this Act
7 mentioned in column 2 in relation to the decision.

8 *internal review notice*—see the *ACT Civil and Administrative*
9 *Tribunal Act 2008*, section 67B (1).

10 *reviewable decision* means a decision mentioned in schedule 2,
11 part 2.2, column 3 under a provision of this Act mentioned in
12 column 2 in relation to the decision.

13 **91** **Internal review notices**

14 If the commissioner or a delegate of the commissioner makes an
15 internally reviewable decision, the commissioner or the delegate of
16 the commissioner must give an internal review notice only to each
17 entity mentioned in schedule 2, part 2.1, column 4 in relation to the
18 decision.

19 *Note* The requirements for internal review notices are prescribed under the
20 *ACT Civil and Administrative Tribunal Act 2008*.

21 **92** **Applications for reconsideration**

- 22 (1) An entity mentioned in schedule 2, part 2.1, column 4 in relation to
23 an internally reviewable decision may apply to the commissioner for
24 reconsideration of the decision.
- 25 (2) The application must be made within 28 days after the day the
26 notice of decision is given to the entity.

1 (3) The application must be in writing and must set out the grounds on
2 which reconsideration of the decision is sought.

3 *Note* If a form is approved under s 100 for an application, the form must be
4 used.

5 (4) If the application is made in accordance with this section, the
6 making of the application automatically stays the operation of the
7 decision until the application is finally dealt with.

8 **93 Reconsideration of decisions**

9 (1) As soon as practicable after receiving an application for
10 reconsideration of a decision (the *first decision*), the commissioner
11 must—

12 (a) appoint a person or entity (the *appointed reviewer*) to review
13 the first decision; or

14 (b) review the first decision.

15 (2) Within 30 days after the day the commissioner or the appointed
16 reviewer receives the application for reconsideration, the
17 commissioner or the appointed reviewer must—

18 (a) reconsider the first decision; and

19 (b) confirm, vary or set aside the decision.

20 **94 Reviewable decision notice**

21 If a person makes a reviewable decision, the person must give a
22 reviewable decision notice to each entity mentioned in schedule 2,
23 part 2.2, column 4 in relation to the decision.

24 *Note* The requirements for reviewable decision notices are prescribed under
25 the *ACT Civil and Administrative Tribunal Act 2008*.

1 **95 Applications for review**

2 An entity mentioned in schedule 2, part 2.2, column 4 in relation to
3 a reviewable decision may apply to the ACAT for review of the
4 decision.

5 *Note* If a form is approved under the *ACT Civil and Administrative Tribunal*
6 *Act 2008* for the application, the form must be used.

1 **Part 10** **Miscellaneous**

2 **96** **Limitation on lawyers legal costs**

3 (1) A lawyer must not charge or seek to recover legal costs that are
4 higher than the amount prescribed by regulation for the following:

5 (a) legal services that relate to an application for financial
6 assistance;

7 (b) legal services that relate to an appeal or review process under
8 this Act.

9 (2) In this section:

10 *legal costs*—see the *Legal Profession Act 2006*, dictionary.

11 *legal services*—see the *Legal Profession Act 2006*, dictionary.

12 **97** **WPI indexation of lawyers legal costs**

13 (1) An amount prescribed by regulation under section 96 must be
14 amended each year in line with variations in the WPI that happen
15 after the commencement of the regulation in which the amount is
16 prescribed.

17 (2) However, if an amount required to be adjusted in accordance with
18 subsection (1) would be reduced because of a reduction in the WPI
19 (a *negative adjustment*), the amount must not be amended in line
20 with the negative adjustment.

21 (3) An amount that, in accordance with subsection (2), is not reduced
22 may be increased in line with an adjustment in the WPI that would
23 increase the amount only to the extent that the increase, or part of
24 the increase, is not one that would cancel out the effect of the
25 negative adjustment.

- 1 (4) Subsection (3) does not apply to a negative adjustment once the
2 effect of the negative adjustment has been offset against an increase
3 in line with an adjustment in the WPI.

4 **Example—adjustments**

5 An amount prescribed by regulation is \$100. There is a 20% increase in the WPI
6 after the section commences. The amount prescribed becomes \$120
7 (\$100 + 20%).

8 There is then a 10% drop in the WPI. The amount does not change from \$120
9 (although if it had changed it would be \$108).

10 There is a 20% increase in the WPI. The 20% increase is not to the \$120, but to
11 the \$108. $\$108 + 20\% = \129.60 . So the \$120 becomes \$129.60. This is the
12 amount (\$120) increased by so much of the 20% increase that did not cancel out
13 the effect of the adjustment down to \$108.

14 *Note* An example is part of the Act, is not exhaustive and may extend, but
15 does not limit, the meaning of the provision in which it appears (see
16 [Legislation Act](#), s 126 and s 132).

- 17 (5) In this section:

18 *WPI* means the Wage Price Index, Australia issued by the
19 Australian statistician.

20 **98 Review of Act**

- 21 (1) The Minister must review the operation of this Act as soon as
22 practicable after the end of its 3rd year of operation.
- 23 (2) The Minister must present a report of the review to the Legislative
24 Assembly within 12 months after the day the review is started.
- 25 (3) This section expires 4 years after the day it commences.

26 **99 Determination of fees**

- 27 (1) The Minister may determine fees for this Act.

28 *Note* The [Legislation Act](#) contains provisions about the making of
29 determinations and regulations relating to fees (see pt 6.3).

1 (2) A determination is a disallowable instrument.

2 *Note* A disallowable instrument must be notified, and presented to the
3 Legislative Assembly, under the [Legislation Act](#).

4 **100 Approved forms**

5 (1) The commissioner may approve forms for this Act.

6 (2) If the commissioner approves a form for a particular purpose, the
7 approved form must be used for that purpose.

8 *Note* For other provisions about forms, see the [Legislation Act](#), s 255.

9 (3) An approved form is a notifiable instrument.

10 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

11 **101 Regulation-making power**

12 (1) The Executive may make regulations for this Act.

13 *Note* A regulation must be notified, and presented to the Legislative
14 Assembly, under the [Legislation Act](#).

15 (2) A regulation may create offences and fix maximum penalties of not
16 more than 10 penalty units for the offences.

1 **Part 11** **Repeals and consequential**
2 **amendments**

3 **102** **Legislation repealed**

4 The following legislation is repealed:

- 5 • *Victims of Crime (Financial Assistance) Act 1983* (A1983-11)
6 • *Victims of Crime (Financial Assistance) Regulation 1998*
7 (SL1998-24)
8 • *Victims of Crime (Financial Assistance) Act 1983—Form 1*
9 (AF2003-3).

10 **103** **Legislation amended—sch 3**

11 This Act amends the legislation mentioned in schedule 3.

1 **Part 20 Transitional**

2 **200 Definitions—pt 20**

3 In this part:

4 *assisted person*—see the [repealed Act](#), dictionary.

5 *commencement day* means the day this Act, section 6 commences.

6 *final award*—see the [repealed Act](#), dictionary.

7 *liability* includes liable to a penalty for an offence against the law.

8 *penalty* includes punishment and forfeiture.

9 *privilege* includes immunity.

10 *related crime*—see the [repealed Act](#), dictionary.

11 *repealed Act* means the [Victims of Crime \(Financial Assistance\)](#)
12 [Act 1983](#) as in force immediately before the commencement day.

13 *right* includes capacity, interest, status and title.

14 **201 Application for financial assistance commenced but not**
15 **finalised under repealed Act, and later action**

16 (1) This section applies if an application under the [repealed Act](#),
17 section 27 (Application for financial assistance) (an *initial*
18 *application*) is made but not finalised before the commencement
19 day.

20 (2) The repealed Act continues to apply to—

21 (a) the initial application and any proceeding relating to the initial
22 application; and

23 (b) a later application under the [repealed Act](#), section 46 (Variation
24 of final awards of financial assistance) (a *variation*
25 *application*) and any proceeding relating to the variation
26 application; and

- 1 (c) the repayment of an amount of financial assistance by an
2 assisted person; and
- 3 (d) the restitution of an amount of financial assistance from a
4 person found guilty of a related crime.
- 5 (3) Without limiting subsection (2), a reference in the subsection to a
6 matter to which the repealed Act continues to apply includes any
7 right, privilege, liability, investigation, act, remedy or proceeding
8 that is related to the matter.

9 **202 Application for financial assistance not commenced**
10 **under repealed Act may be made within 12 months after**
11 **commencement day, and later action**

- 12 (1) This section applies if, immediately before the commencement
13 day—
- 14 (a) a person is entitled to make an application under the [repealed](#)
15 [Act](#), section 27 (Application for financial assistance) (an *initial*
16 *application*); and
- 17 (b) the person has not made the initial application.
- 18 (2) The person may, within 12 months after the commencement day,
19 make the initial application to the Magistrates Court.
- 20 (3) The repealed Act continues to apply to—
- 21 (a) the initial application and any proceeding relating to the initial
22 application; and
- 23 (b) a later application under the [repealed Act](#), section 46 (Variation
24 of final awards of financial assistance) (a *variation*
25 *application*) and any proceeding relating to the variation
26 application; and
- 27 (c) the repayment of an amount of financial assistance by an
28 assisted person; and

1 (d) the restitution of an amount of financial assistance from a
2 person found guilty of a related crime.

3 (4) Without limiting subsection (2), a reference in the subsection to a
4 matter to which the repealed Act continues to apply includes any
5 right, privilege, liability, investigation, act, remedy or proceeding
6 that is related to the matter.

7 **203 Application for financial assistance under repealed Act**
8 **not made within 12 months after commencement day may**
9 **be made under this Act**

10 (1) This section applies if, immediately before the commencement
11 day—

12 (a) a person is entitled to make an application under the [repealed](#)
13 [Act](#), section 27 (Application for financial assistance); and

14 (b) the person has not, within 12 months of the commencement
15 day, made the application in accordance with section 202.

16 (2) The person may apply for financial assistance under this Act for an
17 act of violence that would have been the subject of the application
18 under the [repealed Act](#), section 27.

19 (3) This Act applies to the application mentioned in subsection (2).

20 (4) However, for an application mentioned in subsection (2) the
21 following apply:

22 (a) if the act of violence that is the subject of the application arises
23 in the course of an offence against the [Crimes Act 1900](#),
24 sections 51 to 62—the maximum amount of a recognition
25 payment that may be given by the commissioner is \$50 000; or

- 1 (b) if paragraph (a) does not apply and the person suffers an injury
2 as a result of the act of violence that is the subject of the
3 application, that was an extremely serious injury under the
4 [repealed Act](#), section 11 (What is an *extremely serious*
5 *injury*?)—the amount of a recognition payment that may be
6 given by the commissioner is \$30 000.

7 **204 Transitional regulations**

- 8 (1) A regulation may prescribe transitional matters necessary or
9 convenient to be prescribed because of the enactment of this Act.
- 10 (2) A regulation may modify this part (including in relation to another
11 territory law) to make provision in relation to anything that, in the
12 Executive's opinion, is not, or is not adequately or appropriately,
13 dealt with in this part.
- 14 (3) A regulation under subsection (2) has effect despite anything
15 elsewhere in this Act or another territory law.

16 **205 Expiry—pt 20**

17 This part expires 5 years after the commencement day.

18 *Note* Transitional provisions are kept in the Act for a limited time.
19 A transitional provision is repealed on its expiry but continues to have
20 effect after its repeal (see [Legislation Act](#), s 88).

1 **Schedule 1 Offences—act of violence**

2 (see s 7)

3 **Part 1.1 Definitions**

4 **1.1 Definitions—sch 1**

5 In this schedule:

6 ***Crimes Act*** means the *Crimes Act 1900*.

7 ***Criminal Code*** means the *Criminal Code 2002*.

8 ***Domestic Violence Act*** means the *Domestic Violence and*
9 *Protection Orders Act 2008*.

10 ***Firearms Act*** means the *Firearms Act 1996*.

11 ***Public Order Act*** means the *Public Order (Protection of Persons*
12 *and Property) Act 1971* (Cwlth).

13 ***RT (S and TM) Act*** means the *Road Transport (Safety and Traffic*
14 *Management) Act 1999*.

Part 1.2 Offences

Division 1.2.1 General offences

column 1 item	column 2 legislation	column 3 provision	column 4 description
1	Crimes Act	an offence against pt 2	offences against the person
2	Crimes Act	an offence against pt 3	sexual offences
3	Crimes Act	an offence against pt 4	female genital mutilation
4	Crimes Act	an offence against pt 5	sexual servitude
5	Criminal Code	309	robbery
6	Criminal Code	310	aggravated robbery

Division 1.2.2 Domestic violence offences

column 1 item	column 2 legislation	column 3 provision	column 4 description
1	Crimes Act	116	destroying or damaging property
2	Crimes Act	117	arson
3	Crimes Act	151	forcible entry on land
4	Crimes Act	154 (1)	trespass on government premises

Schedule 1 Offences—act of violence
Part 1.2 Offences
Division 1.2.2 Domestic violence offences

column 1 item	column 2 legislation	column 3 provision	column 4 description
5	Crimes Act	154 (2) (a)	engage in unreasonable obstruction etc in relation to the use of government premises
6	Crimes Act	154 (2) (b)	behave in an offensive or disorderly manner while in or on government premises
7	Crimes Act	154 (2) (c)	refuse or neglect to leave government premises when directed
8	Crimes Act	380	possession of offensive weapons and disabling substances
9	Crimes Act	381	possession of offensive weapons and disabling substances with intent
10	Crimes Act	392	offensive behaviour
11	Criminal Code	311	burglary
12	Criminal Code	316	going equipped with offensive weapon for theft etc
13	Criminal Code	403	damaging property
14	Criminal Code	404	arson
15	Criminal Code	405	causing bushfires
16	Criminal Code	406	threat to cause property damage—fear of death or serious harm
17	Criminal Code	407	threat to cause property damage
18	Criminal Code	408	possession of thing with intent to damage property
19	Domestic Violence Act	90	contravention of protection order
20	Firearms Act	177	unregistered firearms
21	Firearms Act	221	discharge of firearms or possession endangering life
22	Public Order Act	11	offences on premises in a territory

column 1 item	column 2 legislation	column 3 provision	column 4 description
23	RT (S and TM) Act	6 (1)	negligent driving
24	RT (S and TM) Act	7 (1)	furiously, reckless or dangerous driving
25	RT (S and TM) Act	8 (1) or (2)	menacing driving

Schedule 2 Reviewable decisions

(see pt 9)

Part 2.1 Internally reviewable decisions

column 1 item	column 2 section	column 3 decision	column 4 entity
1	32	not to extend time for making application	applicant for extension of time
2	46	amount of financial assistance	applicant for financial assistance
3	47	amount of reduction of financial assistance	applicant for financial assistance
4	50	variation of amount of financial assistance	applicant for variation
5	63	suspension of financial assistance	applicant for financial assistance
6	71 (3)	deciding amount payable by 2 or more offenders	offender required to pay amount decided

Part 2.2 Reviewable decisions

column 1 item	column 2 section	column 3 decision	column 4 entity
1	32	not to extend time for making application	applicant for extension of time
2	44	deciding whether applications for financial assistance involve related acts of violence	applicant for financial assistance
3	45	financial assistance not to be given	applicant for financial assistance

column 1 item	column 2 section	column 3 decision	column 4 entity
4	46	amount of financial assistance	applicant for financial assistance
5	47	amount of reduction of financial assistance	applicant for financial assistance
6	50	variation of amount of financial assistance	applicant for variation
7	63	suspension of financial assistance	applicant for financial assistance
8	67	requirement to repay financial assistance	person who received financial assistance
9	71 (3)	deciding amount payable by 2 or more offenders	offender required to pay amount decided
10	77	requirement to pay, and amount of, recoverable amount	offender who received recovery notice

1 **Schedule 3 Consequential amendments**

2 (see s 103)

3 **Part 3.1 Civil Law (Wrongs) Act 2002**

4 **[3.1] Section 12 (2) (b) (ii)**

5 *omit*

6 **Part 3.2 Crimes (Sentencing) Act 2005**

7 **[3.2] Section 19 (1), note**

8 *substitute*

9 *Note* Certain victims of crimes may claim financial assistance under the
10 *Victims of Crime (Financial Assistance) Act 2016*.

11 **Part 3.3 Crimes (Sentence
12 Administration) Act 2005**

13 **[3.3] Section 116A, definition of *fine*, paragraph (d)**

14 *substitute*

15 (d) a victims financial assistance levy imposed under the *Victims*
16 *of Crime (Financial Assistance) Act 2016*; or

17 **[3.4] Section 116ZR (c)**

18 *substitute*

19 (c) a victims financial assistance levy imposed under the *Victims*
20 *of Crime (Financial Assistance) Act 2016*;

1 **Part 3.4** **Magistrates Court Act 1930**

2 **[3.5] Section 141 (2)**

3 *omit*

4 any levy imposed under the *Victims of Crime (Financial Assistance)*
5 *Act 1983*, part 5.

6 *substitute*

7 any victims financial assistance levy imposed under the *Victims of*
8 *Crime (Financial Assistance) Act 2016*, part 7.

9 **Part 3.5** **Victims of Crime Act 1994**

10 **[3.6] Section 6 (1) (d)**

11 *substitute*

12 (d) the following people under the *Victims of Crime (Financial*
13 *Assistance) Act 2016*:

14 (i) a primary victim;

15 (ii) a related victim;

16 (iii) a homicide witness; and

17 **[3.7] Section 11 (a)**

18 *substitute*

19 (a) to manage the victims services scheme, the financial assistance
20 scheme and any other program for the benefit of victims;

1 **[3.8] Dictionary, new definition of *financial assistance scheme***

2 *insert*

3 *financial assistance scheme* means the scheme established under
4 the *Victims of Crime (Financial Assistance) Act 2016* to provide
5 financial assistance for victims.

6 **Part 3.6 Victims of Crime Regulation 2000**

7 **[3.9] Section 3, note 1**

8 *omit*

9 ‘*serious crime*—see the *Victims of Crime (Financial Assistance)*
10 *Act 1983*, section 2’

11 *substitute*

12 ‘*primary victim*—see the *Victims of Crime (Financial Assistance)*
13 *Act 2016*, section 11.’

14 **[3.10] Section 34 (11)**

15 *substitute*

16 (11) In this section:

17 *related victim*—see the *Victims of Crime (Financial Assistance)*
18 *Act 2016*, section 12.

19 *violent crime*—means an offence against a provision mentioned in
20 an item in the *Victims of Crime (Financial Assistance) Act 2016*,
21 schedule 1 (Offences—act of violence), division 1.2.1 (General
22 offences), column 3 of an Act mentioned in the item, column 2.

1 **[3.11] Schedule 2, part 2.1, item 52**

2 *omit*

3 **[3.12] Dictionary, definitions of *primary victim* and *serious***
4 ***crime***

5 *substitute*

6 *primary victim*—see the *Victims of Crime (Financial Assistance)*
7 *Act 2016*, section 11.

8 *serious crime*—see the *Victims of Crime (Financial Assistance)*
9 *Act 2016*, section 45.

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACT
- Criminal Code
- director-general (see s 163)
- domestic partner (see s 169 (1))
- found guilty
- health practitioner
- home address
- human rights commission
- Minister (see s 162)
- penalty unit (see s 133)
- proceeding
- public servant
- registrar
- territory law
- the Territory.

act of violence—see section 7.

application for financial assistance means an application to the commissioner under section 31.

assisted person means a person who receives financial assistance under part 3 (Financial assistance) or a funeral expense payment under part 4 (Funeral expenses).

1 ***associated payment*** to a person (the ***applicant***) who has received, or
2 is eligible to receive, financial assistance or a funeral expenses
3 payment—

4 (a) means an amount, other than an amount received under this
5 Act, that has been paid to the applicant (or to another person
6 for the applicant) as a result of an act of violence that is the
7 subject of the applicant's application for any financial
8 assistance or funeral expense; and

9 (b) includes any of the following to the extent that they relate to
10 the act of violence that is the subject of the application:

11 (i) an award of damages in a civil proceeding;

12 (ii) a payment under a workers' compensation law;

13 (iii) an insurance payment;

14 (iv) a payment made under a reparation order under the
15 [Crimes \(Sentencing\) Act 2005](#).

16 ***circumstance of aggravation***, for an offence—see section 8.

17 ***class A related victim***—see section 13.

18 ***class B related victim***—see section 14.

19 ***class C related victim***—see section 15.

20 ***close family member***, of a primary victim—see section 17.

21 ***commissioner***—see the [Victims of Crime Act 1994](#), dictionary.

22 ***commissioner's guidelines***—see section 87.

23 ***conduct*** includes related conduct.

24 ***contact with the commissioner*** includes contact with—

25 (a) a member of the staff of the commissioner; or

26 (b) a delegate of the commissioner.

- 1 **convicted**, for part 7 (Victims financial assistance levy)—see
2 section 81.
- 3 **convicts**, for part 7 (Victims financial assistance levy)—see
4 section 81.
- 5 **Crimes Act**, for schedule 1 (Offences—act of violence)—see
6 schedule 1, section 1.1.
- 7 **Criminal Code**, for schedule 1 (Offences—act of violence)—see
8 schedule 1, section 1.1.
- 9 **dependant**, of a primary victim, means—
- 10 (a) a person who is wholly or partly dependent for economic
11 support on the primary victim at the time of the primary
12 victim’s death; or
- 13 (b) a person who would have been wholly or partly dependent for
14 economic support on the primary victim’s income at the time
15 of the primary victim’s death but for the incapacity of the
16 primary victim because of the act of violence that resulted in
17 the death; or
- 18 (c) a child of the primary victim born after the primary victim’s
19 death who would have been a dependant of the primary victim
20 under paragraph (a) or (b) if the child had been born before the
21 death.
- 22 **Domestic Violence Act**, for schedule 1 (Offences—act of
23 violence)—see schedule 1, section 1.1.
- 24 **economic loss payment** means a financial payment under
25 section 27.
- 26 **financial assistance** means any of the following:
- 27 (a) an economic loss payment;
- 28 (b) an immediate need payment;
- 29 (c) a recognition payment.

- 1 ***financially independent***, of a primary victim, means a person who
2 is not dependant on the primary victim at the time of the primary
3 victim's death.
- 4 ***Firearms Act***, for schedule 1 (Offences—act of violence)—see
5 schedule 1, section 1.1.
- 6 ***funeral expense payment*** means a financial payment under
7 part 4 (Funeral expenses).
- 8 ***homicide***—see section 10.
- 9 ***homicide witness***, in relation to a homicide—see section 16.
- 10 ***immediate need payment*** means a financial payment under
11 section 26.
- 12 ***injury***—see section 9.
- 13 ***internally reviewable decision***, for part 9 (Notification and review
14 of decisions)—see section 90.
- 15 ***internal review notice***, for part 9 (Notification and review of
16 decisions)—see the [ACT Civil and Administrative Tribunal
17 Act 2008](#), section 67B (1).
- 18 ***mental disorder***—see the [Mental Health Act 2015](#), dictionary.
- 19 ***mental illness***—see the [Mental Health Act 2015](#), dictionary.
- 20 ***offence***, for part 7 (Victims financial assistance levy)—see
21 section 80.
- 22 ***offence against the person*** means an offence against a provision
23 mentioned in schedule 1 (Offences—act of violence), division 1.2.1
24 (General offences), column 3, item 1, 5, or 6.
- 25 ***offender***, for part 6 (Recovery from offender)—see section 69.
- 26 ***offensive weapon***—see the [Crimes Act 1900](#), dictionary.
- 27 ***official***, for part 8 (Administration)—see section 85.
- 28 ***primary victim***—see section 11.

- 1 **Public Order Act**, for schedule 1 (Offences—act of violence)—see
2 schedule 1, section 1.1.
- 3 **recognition payment** means a financial payment under—
4 (a) for a primary victim—section 28; or
5 (b) for a class A related victim—section 29; or
6 (c) for a class B related victim—section 30.
- 7 **recompensed offence**, for part 6 (Recovery from offender)—see
8 section 69.
- 9 **recoverable amount**, that applies to an offender, for part 6
10 (Recovery from offender)—see section 69.
- 11 **recovery action**, by the commissioner, for part 6 (Recovery from
12 offender)—see section 69.
- 13 **recovery intention notice**, for part 6 (Recovery from offender)—see
14 section 74.
- 15 **recovery notice**, for part 6 (Recovery from offender)—see
16 section 69.
- 17 **related victim**—see section 12.
- 18 **relevant person**—see the [Domestic Violence and Protection Orders
19 Act 2008](#), section 15.
- 20 **relevant relationship**—see the [Domestic Violence and Protection
21 Orders Act 2008](#), section 15.
- 22 **repayment amount**, that applies to an assisted person who has
23 received an associated payment, for part 5 (Repayment of financial
24 assistance and funeral expenses)—see section 62.
- 25 **repayment arrangement notice**, for part 5 (Repayment of financial
26 assistance and funeral expenses by assisted person)—see section 62.
- 27 **repayment direction notice**, for part 5 (Repayment of financial
28 assistance and funeral expenses by assisted person)—see section 62.

1 **reviewable decision**, for part 9 (Notification and review of
2 decisions)—see section 90.

3 **RT (S and TM) Act**, for schedule 1 (Offences—act of violence)—
4 see schedule 1, section 1.1.

5 **schedule 1 offence** means—

6 (a) an offence against a provision mentioned in an item in
7 schedule 1 (Offences—act of violence), division 1.2.1 (General
8 offences), column 3 of an Act mentioned in the item,
9 column 2; and

10 (b) if the victim of an offence is a relevant person in relation to the
11 person who carried out the offence—an offence against a
12 provision mentioned in schedule 1 (Offences—act of violence),
13 division 1.2.2 (Domestic violence offences), column 3 of an
14 Act mentioned in the item, column 2.

15 **sexual offence** means an offence against a provision mentioned in
16 schedule 1 (Offences—act of violence), division 1.2.1 (General
17 offences), column 3, item 2, 3 or 4.

18 **very serious injury** means an injury that results in at least 1 of the
19 following:

20 (a) a physical bodily impairment that is very serious;

21 (b) a disfigurement that is very serious;

22 (c) a mental illness or mental disorder that is very serious;

23 (d) the death of a foetus.

24 **victims services scheme** means the victims service scheme
25 established under the *Victims of Crime Act 1994*, section 19.

26 **workers' compensation law** means the *Workers Compensation*
27 *Act 1951*, or any other law applying in the ACT that provides for the
28 payment of compensation for injuries arising out of or in the course
29 of employment.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 11 February 2016.

2 Notification

Notified under the [Legislation Act](#) on 2016.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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